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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-970]

Multilayered Wood Flooring from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Rescission of the Antidumping Duty New Shipper Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On July 16, 2018, the United States Court of International Trade (CIT) issued a final judgment in *Huzhou Muyun Wood Co., Ltd., LLC. v. United States* ordering the Department of Commerce (Commerce) to proceed with Huzhou Muyun Wood Co., Ltd.'s (Muyun Wood) new shipper review of the antidumping duty order on multilayered wood flooring (wood flooring) from the People's Republic of China (China). Commerce is notifying the public that the final judgment in this case is not in harmony with the final rescission of the new shipper review.

DATES: Applicable beginning July 26, 2018.

FOR FURTHER INFORMATION CONTACT: Aleksandras Nakutis, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-3147.

SUPPLEMENTARY INFORMATION:

Background

Muyun Wood is a Chinese producer/exporter of wood flooring. On June 13, 2015, Huzhou Muyun Wood Co., Ltd.'s (Muyun Wood) requested a new shipper review. On July 29, 2015, Commerce initiated the requested new shipper review covering the period of December 1, 2014, through May 31, 2015.¹

On October 26, 2016, Commerce issued the *Final Rescission*.² In the *Final Rescission*, Commerce determined that Muyun's single sale was not *bona fide* and, accordingly, rescinded its new shipper review. Muyun Wood challenged Commerce's findings in the *Final Rescission* at the CIT.

On December 11, 2017, the CIT remanded for Commerce to determine whether Muyun Wood's sale during the review period was *bona fide*.³ In accordance with the Court's decision, Commerce reconsidered its previous analysis and continued to determine that Muyun Wood's single sale was non-*bona fide*. Specifically, Commerce considered the following factors weighed against finding Muyun's sale *bona fide*: (1) the price reported by Muyun Wood was significantly higher than the highest comparison sales price for identical merchandise reported during a contemporaneous period; (2) the evidence indicating that Muyun Wood's unaffiliated and new customer did not resell the entirety of the merchandise at question for a profit; and (3) the singular nature of the sale.

On July 16, 2018, the CIT held that Commerce's ultimate conclusion that the sale was not *bona fide* was not supported by substantial evidence and that the rescission of the new

¹ See *Multilayered Wood Flooring from the People's Republic of China: Initiation of Antidumping Duty New Shipper Reviews; 2014-2015*, 80 FR 45192 (July 29, 2015).

² See *Multilayered Wood Flooring from the People's Republic of China: Rescission of Antidumping Duty New Shipper Reviews; 2015-2015*, 81 FR 74393 (October 26, 2016) (*Final Rescission*).

³ See *Huzhou Muyun Wood Co. Ltd. v. United States*, 41 CIT ___, 279 F. Supp. 3d 1215 (CIT 2017).

shipper review cannot be upheld.⁴ The CIT found that the totality of the circumstances do not support a finding that the sale was not *bona fide*, given that the sales quantity was typical, the expenses incurred were normal, the sale was made at arm's length, the payment timing was not atypical, and a substantial majority of the product was resold for a profit.⁵ The CIT entered judgment, ordering Commerce to proceed with Muyun Wood's new shipper review.

Timken Notice

In its decision in *Timken*, as clarified by *Diamond Sawblades*, the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision that is not "in harmony" with Commerce's determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's July 16, 2018 final judgment, ordering Commerce to proceed with Muyun Wood's new shipper review, constitutes a final decision of that court that is not in harmony with the *Final Rescission*.⁶ This notice is published in fulfillment of the publication requirements of *Timken*.

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: August 9, 2018.

James Maeder,

Associate Deputy Assistant Secretary

for Antidumping and Countervailing Duty Operations

performing the duties of Deputy Assistant Secretary

for Antidumping and Countervailing Duty Operations.

⁴ See *Huzhou Muyun Wood Co., Ltd. v. United States*, 2018 WL 3455350 (CIT July 16, 2018).

⁵ *Id.* at *8 (referring to the factors outlined at section 751(a)(2)(B)(iv) of the Act).

⁶ See *MLWF Amended Final Determination*, 79 FR 21509 (May 2, 2014) (*MLWF Amended Final Determination*).

